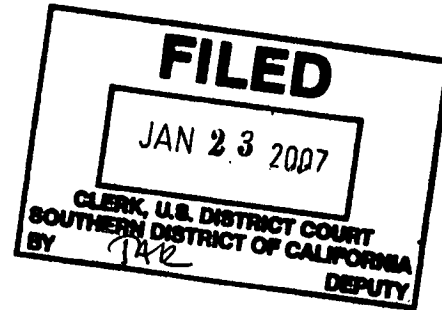


CAROL C. LAM
United States Attorney
WILLIAM A. HALL JR.
Assistant United States Attorney
California State Bar No. Pending
United States Attorney's Office
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101
Telephone: (619) 557-7046



Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
FELIX FRANCISCO PADILLA-VELIZ (1),)
)
Defendant.)

Magistrate Case No. 07MJ8017
07CR0147-BEN ✓

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and William A. Hall Jr., Assistant United States Attorney, and defendant FELIX FRANCISCO PADILLA-VELIZ, by and through and with the advice and consent of defense counsel, Martin G. Molina, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

//

//

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **February 7, 2007**.

6 4. The material witnesses, Maria Del Pilar Aguirre-Gonzalez, Ramiro Cruz-Roman and
7 Juvenal Nunez-Rodriguez, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 January 6, 2007;

11 c. Were found in a vehicle driven by defendant near Calexico, California and
12 that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
13 right to enter or remain in the United States;

14 d. Were paying and having others pay on their behalf an undisclosed amount and
15 \$1,500 to others to be brought into the United States illegally and/or transported illegally to their
16 destination therein; and,

17 e. May be released and remanded immediately to the Department of Homeland
18 Security for return to their country of origin.

19 5. After the material witnesses are ordered released by the Court pursuant to this
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any
22 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
23 attack, that:

24 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
25 substantive evidence;

26 //

27 //

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Felix Francisco Padilla-Veliz (1)

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004), "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant waives the right to confront and cross-examine the material witness(es) in this case.

6. By signing this stipulation and joint motion, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant certifies further that defendant has discussed the terms of this stipulation and joint motion with defense counsel and fully understands its meaning and effect.

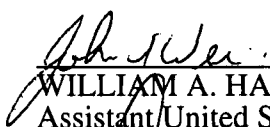
Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to their country of origin.

It is STIPULATED AND AGREED this date.

Respectfully submitted,

CAROL C. LAM
United States Attorney

Dated: 1/23/07


WILLIAM A. HALL JR.
Assistant United States Attorney

Dated: 1/22/07


MARTIN G. MOLINA
Defense Counsel for PADILLA-VELIZ

Dated: _____


FELIX FRANCISCO PADILLA-VELIZ
Defendant

ORDER


Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 1-23-07


United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff

vs.

Felix Francisco Padilla-Veliz

Defendant(s)

CRIMINAL NO. 07CR0147-BEN

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge, **PETER C. LEWIS**

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court).

Maria del Pilar Aguirre-Gonzalez

00376298

GEO

DATED: 1/23/07

PETER C. LEWIS

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED

DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by [Signature]
Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff

vs.

Felix Francisco Padilla-Veliz

Defendant(s)

CRIMINAL NO. 07CR0147-BEN

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge,

PETER C. LEWIS

IT IS HEREBY ORDERED that the following named person heretofore
committed to the custody of the United States Marshal as a material witness be
released from custody: (Bond Posted / Case Disposed / Order of Court)

Ramiro Cruz-Roman

00375298

GEU

DATED: 1/23/07

PETER C. LEWIS

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED *Lai*

DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by *Jesus Alvarez Pineda*

Deputy Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff)

vs.)

Felix Francisco Padilla-Veliz)

Defendant(s))

CRIMINAL NO. 07CR0147-BEN

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge,

PETER C. LEWIS

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court).

Juvenal Nunez-Rodriguez

00374298

Geo

DATED: *1/23/07*

PETER C. LEWIS

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED

P
DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by *Sere-Alvarez-Romero*

Deputy Clerk